IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CUSTOMS APPEAL NO.41 OF 2005

Commissioner of Customs (Import) .. Appellant.
V/s.
Electron Textile Exports (P) Limited & Another .. Respondents.

Mr.P.S. Jetly for the appellant.
None for the respondents.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 14TH JUNE, 2006.

P.C. :

Heard learned counsel for the revenue. None for the respondent inspite of service. Perused Customs Appeal with other documents. The questions sought to be raised in the appeal revolves around the question reproduced hereinbelow.

> Whether the Assistant Director, Directorate of Revenue Intelligence (DIR), Mumbai was competent to issue the Show Cause Notice dated 29/03/1993 under Sections 28 and 124 of the Customs Act, 1962 ?

2. Mr.Jetly, learned counsel appearing for the appellant / revenue submits that in the impugned order, the Tribunal has relied upon its earlier order in the cases of Manohar Brothers Capacitors V/s. CCE [1998 (98) ELT 621] and in the case of CCE V/s. Mahesh India [2003 (151) E.L.T. 168] which are no longer good law in view of the subsequent Larger Bench judgment of the Tribunal in the case of Konia

Trading Co. V/s. Commissioner of Customs, Jaiput [2004 (170 ELT 51-Trib.] wherein the Larger Bench of the Tribunal was pleased to hold that where the officers of DRI were appointed by the Central Government, they will have jurisdiction to act as a 'Proper Officer' in relation to matters where the Customs Officers are notified as 'Proper Officer'. In this view of the matter, the Larger Bench has answered the question referred to it in favour of the revenue and against the assessee.

3. Mr.Jetly while relying upon the above judgment of the Larger Bench in the case of Konia Trading Co. (supra) has also relied upon the Notification No.19/89-Cus. (NT) dated 26th April, 1990; wherein the Assistant Director, DRI of Revenue Intelligence is notified to be the Proper Officer for the whole of India as well as for the States of Maharashtra, Madhya Pradesh and Goa in relation to the matters where Customs Officers are required to be notified as 'Proper Officer'.

4. Having examined the legal submission advanced and the view taken by the Larger Bench of the Tribunal; which finds our approval, we answer the above question in favour of the revenue and against the assessee holding that the Assistant

Commissioner, Director of Revenue Intelligence (DRI) was competent to issue show cause notice dated 29th March, 1993 under Sections 28 and 124 of the Customs Act, 1962.

5. Having answered the above question, other two questions framed while admitting the appeal need no specific answer being consequential in nature.

6. In the above view of the matter, appeal is allowed. The impugned order is quashed and set aside with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)